

Joint Legislative Oversight Committee on Health and Human Services:
03/13/12

Closure of Dorothea Dix Hospital- Staff Overview

The Secretary has the statutory authority to close the Dorothea Dix Psychiatric Hospital provided the Secretary develops a plan, complies with certain notice and review requirements, the closure is approved by the Governor and the Council of State, and the General Assembly does not pass legislation specifically disapproving the closure.

The 2010 Budget Act expressly provides that 122C-181 and 122C-112.1 apply to Dorothea Dix Hospital **SECTION 10.10.(b)** Notwithstanding any other provision of law, G.S. 122C-112.1(a)(30) and G.S. 122C-181 apply to Dorothea Dix Hospital.

G.S. 122C- 181 and G.S. 122C-112.1 provide the following process:

1. The Secretary notifies the Joint Legislative Commission on Governmental Operations (Gov Ops), the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services (LOC), and all legislators who represent catchment areas affected by the proposed closure. **November 1, 2010**

2. The Secretary presents a plan for the closure to the LOC and the House and Senate Appropriations committees on Health and Human Services for their review, advice and recommendations. The plan must address certain specific issues, and the Secretary must take the comments and recommendations of the committees into consideration when implementing the plan. **Presented on November 9, 2010 with an anticipated proposed closure date of 3/21/2011***

3. The Secretary must obtain the approval of the Governor and the Council of State. **Filed 11/1/10- calendared 12/7/10. *No record of Council of State's approval**

4. The closure becomes effective on:

*a. the 31st day of the next Regular Session of the General Assembly that begins at least 10 days after the closure is approved; or

b. if a bill specifically disapproving the closure is introduced prior to the 31st legislative day, upon the earlier of either the day an unfavorable final action is taken on the bill or the day that session of the General Assembly adjourns without enacting a bill that specifically disapproves the State facility closure; or

c. a date specified by the Secretary that is later than either of the foregoing dates, absent legislation disapproving the closure.

House Bill 4 and Senate Bill 53 were timely introduced specifically disapproving closure. The General Assembly adjourned on June 18, 2011.

**** If the Council of State did not approve closure then these bill were premature.**

If the Council of State and Governor approve closure it will become effective the 31st legislative day of the next Regular Session unless a bill is filed to disapprove closure.

Sale, Lease - ***The Sale or Lease is not contingent on facility closure**

Article 7 of Chapter 146 governs the sale of State property. G.S. 146-29 provides that if the Department of Administration determines that it is in the best interest of the State that land be sold, the Department shall proceed with the sale in accordance with rules adopted by the Governor and the Council of State. This statute also provides that every conveyance in fee of land owned by the State or by any State agency must be made with the approval of the Governor and Council of State as prescribed by G.S. 146-74 through 146-78. G.S. 146-74 provides that if the conveyance is of land with an appraised value of \$25,000 or more and the conveyance is for other than a transportation purpose, the Council of State must also *consult with the Joint Legislative Commission on Governmental Operations*. G.S. 146-76 provides that this is the exclusive and only method of conveying State lands in fee. In most cases, the Department seeks the approval of Gov Ops, in addition to the Governor's and Council of State's approval.

G.S. 146-29.1 provides that real property may not be sold at less than fair market value **unless** it is sold to a private, non-profit group. Even then, it can only be sold at less than fair market value if the transaction is in consideration of the group's public service and the land will be used in connection with the group's nonprofit purpose only. In this case, the property would not need to be placed on the open market. However, at least thirty days prior to the conveyance, G.S. 146-29.1 requires that the Department report the sale to Gov Ops and the Fiscal Research Division. Approval of the Council of State and the Governor is still required.

Disposition of proceeds from a Sale or Lease-Session Law 2011-373 and G.S. 146-30

G.S. 146-30- Land appraised at over 6 million- 100% general fund; Land appraised under 6 million – 25% agency; 25% general fund; 50% retirement system.

*Session Law 2011-373 if sold before 7/1/12 1st 15 million absorbed as savings within Appropriations Act; if sold between 7/1/12 and 7/1/13 first 25 absorbed as savings within Appropriations Act - and then follow G.S. 146-30.

The North Carolina General Assembly by legislative act could designate a specific disposition of proceeds from a specific sale or make changes to the process of closure or sale of a State facility.